

REMARKS

Claims 26-38 and 41-44 are pending in the present application, claims 39-40 having been cancelled without prejudice or disclaimer herein. The Office Action and cited references have been considered. Favorable reconsideration is respectfully requested.

Claims 26, 27, 35-38 and 44 were rejected under 35 U.S.C. §103(a) as unpatentable over Cutillo (U.S. Patent Application Publication No. 2006/0228113) in view of Daniels (U.S. Patent Application No. 2003/001227). Claims 28 and 29 were rejected under 35 U.S.C. §103 as being unpatentable over Cutillo in view of Daniels and Czerwiec (U.S. Patent No. 5,903,372). Claims 30-31 33, 39, and 40-43 were rejected under 35 U.S.C. §103 as being unpatentable over Cutillo in view of DeLangis (U.S. Patent Application Publication No. 2005/0078690) and Daniels. Claims 32 and 34 were rejected under 35 U.S.C. §103 as being unpatentable over Cutillo in view of DeLangis and Daniels and further in view of Czerwiec. These rejections are respectfully traversed for the following reasons.

The remarks submitted previously are incorporated herein by reference. The following remarks are also submitted in response to the rejections.

Claim 26 has been amended to recite a method of providing subscribers with communication services in accordance with their agreements with a service provider, the method comprising determining a first plurality of subscribers to be connected to the service provider via a distribution unit located in an access network, the first plurality comprising different subscribers having current requirements for technologically advanced broadband communication services or for technologically less advanced communication services, respectively, in the

distribution unit, providing a second plurality of communication devices for serving the first plurality of subscribers, selecting an advanced broadband technology to be produced by the distribution unit to be a minimal default technology (DABT), wherein DABT is a more advanced than technology currently required by at least one of the subscribers, in the distribution unit, arranging said second plurality of communication devices so that said second plurality consisting only of uniform communication devices using the DABT, providing for each of said subscribers, irrespective of its individual agreement reached with the service provider, an individual permanent communication link for supplying, from one of the communication devices, respective broadband communication services by using said DABT, and enabling each of the plurality of subscribers to receive services in accordance with their respective agreements with the service provider, while reserving use of broadband capacity of each individual permanent communication link until required. This is not taught, disclosed or made obvious by the prior art of record.

On pages 3-4 of the Action the Examiner contends that Cutillo discloses all features of the invention except the feature that the second plurality of communication devices comprises only uniform communication devices using DABT. Applicant disagrees.

The Examiner says that Cutillo (Fig. 1) uses the minimum default technology DABT=ADSL.

Applicants' claims require that the second plurality of communication devices serve the first plurality of subscribers – and the Examiner acknowledges that limitation, saying that Cutillo in Fig. 1 comprises a second plurality of uniform communication devices being ADSL modems. The Examiner further contends that

Cutillo (Fig. 1) enables each of the plurality of subscribers to receive services in accordance with their respective agreements with the service provider. Here the Examiner cites paragraphs [0029] and [0031] of Cutillo, which state that a distribution unit 22 (Fig. 1) provides xDSL service to a plurality of subscribers or users via an ADSL **or** VDSL connection ...to a **corresponding** VDSL modem 26 or ADSL modem 28).

Applicant respectfully submits that the Examiner's assertions are contradictory, since:

a) the second plurality of communication devices (ADSL modems) cannot serve the first plurality of subscribers (the Cutillo's subscribers comprise users receiving VDSL services, so they need at least VDSL modems), and

b) the DABT technology, would it be selected=ADSL by Cutillo (as the Examiner asserts), could not serve Cutillo-subscribers having agreements about VDSL services; Cutillo uses VDSL connections/modems to provide VDSL services to such subscribers.

In the present invention, the DABT technology is selected so as to enable each of the plurality of subscribers to receive services at least in accordance with their respective agreements. Moreover, in the present invention, DABT technology is more advanced than the technology which is currently needed by at least one of the subscribers. See for example, page 5, lines 18-27:

The method is preferably based on providing an infrastructure that supports a uniform (one and the same), usually most advanced telecommunication technology for all subscribers, be it a subscriber who should be provided with a voice only service that could have been satisfied by using a simple POTS link, or a subscriber that actually ordered a most demanding service. Even if the agreement for a specific communication service with a particular end user were for the

provision of an analogue telephony, the service would arrive to the customer premises over a digital medium, even though it exceeds the current needs of that user.

According to the present invention, selecting the DABT services and providing individual permanent communication lines to subscribers allow reserving broadband services for subscribers which are presently "narrowband", for future upgrade. See page 5, lines 5-8 ("*The term "reserving" should be understood as providing for each particular subscriber an individual broadband communication link, though postponing use of the broadband capacity of the link till the subscriber orders specific broadband services from the service provider.*")

The fact that the subscribers according Applicant's invention are non-uniform (have technologically different current requirements) is clear and does not need any verbal support; nevertheless see page 21, last paragraph where subscribers of advanced and less advanced technologies are discussed.

Further, the Examiner says that Daniels comes to resolve the problem and discloses the feature that the second plurality of communication devices comprises only uniform communication devices using DABT. Applicant respectfully disagrees.

Daniels has nothing in common with the purpose of the present invention (as well as with the purpose of Cutillo). Daniels has no idea (actually, as well as Cutillo) what DABT is and how it is selected. Daniels is just used as an example of arrangement having uniform communication devices.

Applicant respectfully submits that Daniels simply calculates capacity for a communication system and uses a number of examples of the system: Fig. 1 of Daniels shows one example of the system having uniform ADSL communication

devices serving uniform ADSL terminals/subscribers, and such an arrangement is just easy for his calculations.

One of ordinary skill in the art could like find a million of cases/references where a system of communication devices comprises only ADSL devices. However, that person would understand that this does not mean that DABT is selected in for these uniform devices.

There is absolutely nothing in the Daniel's reference which would have suggested to one of ordinary skill that the uniform ADSL subscribers could be served according to the way proposed in the present invention (*e.g.*, by selecting DABT being more advanced than the technology at least one of the subscribers currently requires, or by serving non-uniform subscribers requiring different technologies, by uniform communication devices.)

Applicant respectfully submits that even if, assuming for the sake of argument, the references taught all of the claimed limitations, one of ordinary skill in the art would not have had any motivation to combine the teachings of the references as asserted in the Office Action. Applicant submits that the Examiner has not demonstrated that there is an obvious purpose to combine the known pieces of information so as to achieve the same result as the inventors achieved. In fact, there is no such an obvious purpose or incentive. To the contrary, the decision to use, by purpose, more advanced DABT individual connections (communication devices) for serving less advanced subscribers would have seemed ineffective and is therefore non-obvious.

Indeed, Cutillo teaches that every client should be served according to the client's parameters/requirements (ADSL communication device for one terminal,

VDSL for another). Daniels calculates capacity of a system having uniform devices, or capacity of a system of non-uniform devices. Where is there an incentive or a reason to act as we proposed in Applicant's claimed invention? Applicant respectfully submits that there is none.

To be specific, what would the average person get, should he/she anyway try to combine the references?

1. The clients (of Cutillo) requiring VDSL services would not be served by uniform ADSL communication devices of Daniels.
2. The combination does not give anything more, since neither Cutillo nor Daniels teaches selecting DABT=VDSL and of course do not even hint at selecting VDSL communication devices/modules to serve ADSL or even narrowband clients.

Applicant respectfully submits that with regard to claim 27, Cutillo does not disclose a method where said DABT is VDSL. In Fig. 1, item 26 (VDSL modems) serve only VDSL clients, while other clients are served by ADSL modems (28). This means that VDSL is not DABT.

Applicant respectfully submits that with regard to claim 38, Fig. 1 illustrates and paragraph [0031] of Cutillo says that different clients are served by technologically different modules. VDSL and ADSL are used as examples, as well as in the Examiner's arguments in the Office Action (section 5, pages 3-4).

The combination of the teachings of Cutillo and Daniels cannot arrive to Applicant's solution since they do not set and thus do not reach the object of Applicant's invention, and cannot provide the advantages Applicant's invention provides, namely, a technology ready for future upgrades of a system and

simultaneously minimizing maintenance costs, reducing the number of visits of a technician and a number of adjustments in a telecommunication system, when the system is upgraded (for example, when the system "migrates" from initial modest needs of its subscribers to advanced services required by the subscribers). Applicant respectfully submits that the advantages of reducing maintenance costs and minimizing visits of technicians are absolutely non-expected advantages when speaking about upgrades in a telecom system.

It is principally important that neither Cutillo nor Daniels hints or suggests arranging the second plurality of uniform communication devices to serve the first plurality of non-uniform subscribers! This simple solution, together with selecting DABT (never done by anybody in the art) inventively solves a bunch of hard problems: of upgrading, logistics, allows avoiding capacity estimations, excessive visits of technicians for upgrade and maintenance.

Since the prior art, whether taken alone or in combination, does not teach each of the claimed limitation set forth in the independent claims 26, 30, 35, and 44, the prior art does not render the claims obvious. For at least these reasons, Applicant respectfully submits that claims 26, 30, 35, 39, and 44 are patentable over the prior art of record. As discussed above, none of the other cited art remedies the deficiencies noted above with respect to Cutillo. Accordingly, claims 27-28, 31-32, 36-41 and 43, as well as claims 33 and 42, are believed to be patentable over the prior art of record in and of themselves and for the reasons discussed above with respect to claims 26, 30, 35, 39, and 44.

In view of the above amendment and remarks, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections of record.

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Applicant submits that the application is in condition for allowance and early notice to this effect is most earnestly solicited.

If the Examiner has any questions, he is invited to contact the undersigned at 202-628-5197.

Respectfully submitted,

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